

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

A.G., et al.,

3:13-CV-01051-AC

Plaintiffs,

ORDER

v.

THE OREGON DEPARTMENT
OF HUMAN SERVICES,
a government agency, et al.,

Defendants.

BROWN, Judge.

Magistrate Judge John V. Acosta issued Amended Findings and Recommendation (#313) on June 22, 2015, in which he recommends the Court deny Plaintiffs' Motion (#221) to Certify a Class of Persons, deny as moot Plaintiffs' Motion (#230) for Default Judgment, deny as moot Defendants' Motion (#183) to Strike, and grant Defendants' Motion (#183) for a More Definite Statement.

The Magistrate Judge also recommends the Court grant in part and deny in part Defendants' Motion (#183) to Dismiss as follows:

1. grant Defendants' Motion to Dismiss Plaintiffs' Fifth Federal Claim and dismiss that claim without prejudice,
 2. grant Defendants' Motion to Dismiss Plaintiffs' Fifth state Claim and dismiss that claim without prejudice,
 3. grant Defendants' Motion to Dismiss Plaintiffs' Ninth state Claim and dismiss that claim with prejudice, and
 4. deny the remainder of Defendants' Motion to Dismiss,
- Plaintiffs and Defendants filed timely Objections to the Amended Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *Dawson*, 561 F.3d at 932; *Reyna-Tapia*, 328 F.3d at 1121.

In their Objections the parties reiterate the arguments contained in their briefing related to Defendants' Motion to Dismiss, Plaintiffs' Motion to Certify a Class of Persons, Plaintiffs' Motion for Entry of Default, and stated at oral argument. This Court has carefully considered the parties' Objections and concludes they do not provide a basis to modify

the Amended Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Acosta's Amended Findings and Recommendation (#313). The Court, therefore, **DENIES** Plaintiffs' Motion (#221) to Certify a Class of Persons; **DENIES as moot** Plaintiffs' Motion (#230) for Default Judgment; **DENIES as moot** Defendants' Motion (#183) to Strike; **GRANTS** Defendants' Motion (#183) for a More Definite Statement; and **GRANTS in part** and **DENIES in part** Defendants' Motion (#183) to Dismiss as follows:

1. **GRANTS** Defendants' Motion to Dismiss Plaintiffs' Fifth Federal Claim and **DISMISSES** that claim **without prejudice**,
2. **GRANTS** Defendants' Motion to Dismiss Plaintiffs' Fifth State Claim and **DISMISSES** that claim **without prejudice**,
3. **GRANTS** Defendants' Motion to Dismiss Plaintiffs' Ninth State Claim and **DISMISSES** that claim **with prejudice**,
and
4. **DENIES** the remainder of Defendants' Motion to Dismiss.

To clarify for Plaintiff the claims he may replead and the time limit by which he may replead those claims, the Court requests the Magistrate Judge issue a case-management order.

IT IS SO ORDERED.

DATED this 3rd day of September, 2015.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge